

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL, DELHI
Sh. Narinder Kumar, Member (J)

Appeal No. 181/ATVAT/2019

Date of Judgment: 31/8/2021

M/s. Hamraj Enterprises,
Shop No. 8, 3950,
Behind HDFC Bank, G.B. Road,
Ajmeri Gate,
Delhi – 110 006.

.... Appellant

V

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel for the Appellant

: Sh. Anuj Jain.

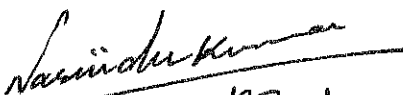
Counsel for the Revenue

: Sh. P. Tara.

JUDGMENT

1. The above mentioned appeal has been filed challenging order dated 12/3/2020 passed by VATO (Ward-24) - learned Objection Hearing Authority (OHA), under Central Sales Tax Act (CST). The appeals pertain to all the four quarters of the year 2013.

2. Assessing Authority - AVATO (Ward 24) vide orders dated 31/3/2019 directed the appellant-applicant in respect of 2nd, 3rd & 4th quarter of 2014, by way of additional tax and interest under CST Act.


31/8/21

3. Vide impugned order dated 12/3/2020, Ld. OHA reduced the demand in respect of 2nd, 3rd & 4th quarter of 2014, keeping in view that some of the Statutory forms were produced before him during objections, and also taking into consideration the missing statutory Forms.

Hence, these appeals.

4. Arguments heard. File perused.

5. Learned counsel for the appellant submits that subsequent to the disposal of the objections by learned OHA, appellant received certain statutory forms (C-Forms) which the appellant has placed on record, and that the same be allowed to be considered by the Assessing Authority.

Learned counsel for the appellant has submitted that the C-forms filed in these appeals could not be earlier submitted by the appellant due to sufficient cause. The contention is that the appeal be disposed of for re-assessment by the Assessing Authority, keeping in view the C-forms now produced.

6. Learned counsel for Revenue has gone through the list of the forms, submitted by the appellant before this Tribunal, and submitted that these pertain to the tax period, to which these appeals relate.

nh
31/8

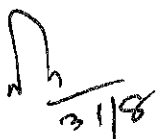
In this regard, it is pertinent to mention here that during pendency of these appeals, the appellant has deposited a sum of Rs. 3,01,379/- towards balance of the disputed demand in respect of the statutory forms which have not so far been produced.

7. Copies of the Statutory Forms now filed by the dealer – appellant are available from page 6 - 38 lying annexed to list now marked as Ex.-C-1.

8. In the case of **M/s Kirloskar Electric Co. Ltd. V/s. Commissioner of Sales Tax**, 1991 Vol. 83 of Sales Tax Cases, 485, decided by Hon'ble High Court of Delhi, Hon'ble Judge observed in the manner as :-

“The State is entitled to the tax which is legitimately due to it. When the Sales Tax Act provides that a deduction can be claimed in respect of sales affected in favour of registered dealers than the deduction should be allowed. The proof in support of claiming the deduction is the production of the S.T. 1 forms. Even though the S.T. 1 forms were produced after the assessment had been completed. It will not be fair or just not to allow the legitimate deduction.....”

9. In the light of the judgment of Hon'ble Delhi High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves another opportunity to submit C-forms, referred to above.



3/1/8

Accordingly, these appeals are disposed of so as to allow another opportunity to the appellant to present before the Assessing Authority, statutory forms, copies whereof have been filed before this Tribunal. The Assessing Authority shall subject these C-forms to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said C-forms, now filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law. Appellant is hereby directed to appear before the Assessing Authority on 24/9/2021.

10. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 31/8/2021


(Narinder Kumar)
Member (J)

Appeal No. 181/ATVMT/2019/870-872

Dated: 31/8/2021

Copy to:-

- | | |
|--|----------------|
| (1) VATO (Ward-24) | (6) Dealer |
| (2) Second case file | (7) Guard File |
| (3) Govt. Counsel | (8) AC(L&J) |
| (4) Secretary (Sales Tax Bar Association) | |
| (5) PS to Member (J) for uploading the judgment on the portal of DVAT/GST, Delhi - through EDP branch. | |


REGISTRAR